

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS: CRIMINAL TERM, PART 34

-----X  
THE PEOPLE OF THE STATE OF NEW YORK, :  
 : AFFIRMATION  
 :  
 -against- : Kings County  
 : Indictment No.  
 JABBAR COLLINS, : 2884/94  
 :  
 Defendant. :  
 :  
-----X

Michael F. Vecchione, an attorney admitted to practice in the courts of this State, affirms the following to be true under penalty of perjury:

1. I am submitting this affirmation in opposition to the motion of the defendant, Jabbar Collins, to vacate his judgment of conviction pursuant to C.P.L. § 440.10. I make this affirmation on the basis of present recollection and upon my review of the case file, which I have undertaken at the request of Kings County Assistant District Attorney Monique Ferrell.

2. I am currently the Chief of the Rackets Division of the Brooklyn District Attorney's Office. I am also the former chief of the Homicide Bureau.

3. In 1994, I was assigned by District Attorney Charles J. Hynes to lead the prosecution of Jabbar Collins for the murder of Rabbi Abraham Pollock.

Working at my direction were ADA Charles Posner and ADA Stacey Frascogna. Also working under my direction were paralegal Liza Noonan, and Detective Investigators Brian Maher and Stephen Bondor.

4. Although I tried this case in March 1995, more than eleven years ago, I still have a clear recollection of it.

5. As the lead prosecutor, I and I alone determined the course of our investigation and the manner in which the trial was conducted. I held myself and those who worked for me to a high professional standard. Although ADA Posner was an experienced lawyer, he was not an experienced prosecutor or investigator. Therefore, he did not act without consulting me, and he would not have withheld information from me. Charles Posner was in all respects a person and a public servant of impeccable character. Likewise, ADA Frascogna was not an experienced prosecutor, but she was and is a person and a prosecutor of great integrity.

6. I have read the allegations contained in defendant Collins' motion. They are, without exception, untrue.

7. No deals were made with witnesses that were not disclosed by me to the Court and the defense. No witness ever recanted a prior statement or grand jury testimony. No witness had to be threatened or forced to testify.

8. Neither I nor any member of the trial team withheld exculpatory evidence.

9. Neither I nor ADA Posner intentionally elicited false testimony or knowingly allowed any witness to testify in a manner that was untruthful.

10. Among the decisions that I made in this case were the decisions to enter into cooperation agreements with witnesses. No deal was offered to witness Edwin Oliva concerning his 1994 robbery case. His case was handled routinely by this Office without regard to the fact that he had given a statement regarding his knowledge of defendant's role in the murder of Rabbi Pollack.

11. I did not knowingly or intentionally fail to turn over to defense counsel a copy of the 911 tape or any other Rosario or Brady material. Having provided counsel with the Sprint report and the 911 printout, I necessarily would also give counsel the tape. Although it is possible that counsel did not provide a

blank tape for copying, I do not recall that to have happened. It is also possible that, upon listening to the tape, I concluded that Angel Santos' call had not been captured. In that situation, I would have informed counsel and left it up to him whether he wanted a copy of the tape.

12. I truthfully disclosed to the court and counsel the only promises that had been made to Adrian Diaz, to whom I had made no promises concerning his misdemeanor probation status. I notified his probation officer while Diaz was still in Brooklyn that and why he was being allowed to return to Puerto Rico, and I did not intercede in any manner in the Department of Probation's handling of that case.

13. I did not know that Diaz had an earlier probation violation for marijuana use, because I did not have and ordinarily never have a copy of a witness's probation file.

14. When I traveled to Puerto Rico shortly before the trial, I did so with only a material witness order, which it proved unnecessary to use, because Diaz agreed to return and testify. He did not recant his grand jury testimony. I made no promises

to Diaz concerning his probation status and overheard no such promise being made by anyone else.

15. Until the evening of March 6, 1995, I had not spoken with Edwin Oliva, and I did not know whether he would testify. In fact, I had never placed his name on our trial witness list or included his identification in the Wade hearing. Although Oliva had never recanted his statement, I recall that he was fearful and reluctant to testify because he, like many of our witnesses, was afraid of defendant and his family. I promised Oliva nothing other than what I informed the court and defense counsel. Oliva did not tell me that anyone else had made promises to him or threatened him, and he did not ask for anything other than what I told him I would do: inform his parole officer of his testimony and arrange for his relocation if he requested it.


16. This Office did not conspire with the Parole Department to pressure Oliva to testify. While Oliva's parole officer may have been notified if Oliva missed an appointment or refused to respond to us, that would have been entirely routine and would not have been undertaken as a means of forcing Oliva to testify against his will.

17. The defense accusations that Charles Posner threatened Oliva and offered Oliva money for his testimony are outrageous. No one who knew Judge Posner, a good and honest man, would credit even for a moment that he would do so.

18. I recall that Michael Harrison did an excellent job in his defense of defendant Collins. As I stated on the record, Mr. Harrison is a worthy opponent in any trial, and he effectively represented defendant Collins. He cannot fairly be blamed for the guilty verdict when the outcome of the trial was dictated by the fact that defendant Collins chose to commit this crime in the middle of the day in a neighborhood where he was known by seemingly everyone. Although defendant has always contended that he would not have voluntarily subjected himself to lineups if he was guilty, the truth as I recall it was that defendant believed that he and his family had sufficiently threatened and intimidated everyone so that no one would be foolish enough to identify him. He was wrong. Two young men - Angel Santos and Adrian Diaz - were brave enough to do so.

19. These and all other unsubstantiated allegations of misconduct are, without exception, false and scurrilous.

Dated: Brooklyn, New York  
November 3, 2006

  
Michael F. Vecchione  
Assistant District Attorney

